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December 4, 1996

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VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Re: MM Docket No. 87-268

Dear Mr. Caton:

On behalf of Davis Television Topeka, LLC, Davis Television Pittsburg, LLC, Davis Television Waterville, LLC, Davis Television Corpus Christi, LLC, Davis Television Fairmont, LLC, Davis Television Duluth, LLC, and Davis Television Wausau, LLC, I am transmitting herewith an original and nine copies of their Comments in response to the Commission's Sixth Further Notice of Proposed Rulemaking, FCC-96-317 (released August 14, 1996) in the above-referenced proceeding. These Comments are being filed in accordance with an Order Extending Time for Filing Reply Comments, DA-1929, released November 20, 1996, in which the Commission made clear that it will accept late-filed comments "for a reasonable period of time" after the November 22, 1996 deadline. In light of that articulated policy, acceptance of these Comments is respectfully requested. See note 1 of the Comments.

Should there be any questions concerning this matter, please contact the undersigned.

Very truly yours,



Dennis P. Corbett

DPC:kbs
Enclosures

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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Advanced Television Systems)
and Their Impact upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

To: The Commission

COMMENTS OF DAVIS TELEVISION TOPEKA, LLC, ET AL.

Davis Television Topeka, LLC, Davis Television Pittsburg, LLC, Davis Television Waterville, LLC, Davis Television Corpus Christi, LLC, Davis Television Fairmont, LLC, Davis Television Duluth, LLC, and Davis Television Wausau, LLC ("Davis TV"), by their attorneys, hereby comment on the Commission's Sixth Further Notice of Proposed Rulemaking in the above-captioned proceeding, FCC 96-317 (released August 14, 1996) ("Notice").¹

Davis TV supports the ongoing efforts by the Commission to facilitate the transition to digital television ("DTV") broadcasting. The Commission's draft DTV Table of Allotments, issued as part of the Notice, reaffirms the Commission's objective of providing full replication of existing NTSC service areas, and Davis TV applauds the Commission's commitment to these principles. Although Davis TV supports the Commission's general

¹ By an Order Extending Time for Filing Reply Comments, DA 96-1929, released November 20, 1996, the Commission made clear that it will accept late-filed comments "for a reasonable period of time" after the November 22, 1996 deadline. Because these comments are being filed within 7 business days of November 22 and more than a month in advance of the newly extended reply comment deadline (January 10, 1997), these comments satisfy the reasonable period of time test and should be accepted, relief which is respectfully requested.

allotment and assignment scheme, Davis TV respectfully submits that the Commission must modify its proposed policies towards new full power station construction permit applications in order to insure a consistent and equitable transition to the digital broadcasting era.

APPLICANTS WHO FILED NEW NTSC CONSTRUCTION PERMIT APPLICATIONS IN COMPLIANCE WITH THE DEADLINE ESTABLISHED BY THE NOTICE DESERVE PROTECTION IN THE DTV CONVERSION TABLE

In its Notice, the Commission expressly permitted the filing of new NTSC station construction permit ("CP") applications. In the past, CPs have meant that a permittee could construct a station with the reasonable expectation that its station could be used for television broadcasting in the foreseeable future. The Notice, however, eliminates that expectation.

The Commission's tentative decision not to extend DTV conversion protection to CP applicants would have the perverse effect of undermining the value of the very stations which the Commission has permitted to come into existence in the Notice. A CP granted today should not be threatened with extinction at the end of the transition period. It is fundamentally unsound public policy to simultaneously encourage the construction of new stations while eliminating the future value of those same stations.

Davis TV respectfully submits that the Commission should not banish to the digital wilderness those who filed CP applications by September 20, 1996 as well as those who filed timely applications which are mutually exclusive with such applications. The Commission should include all such CP applications in the DTV Table of Allotments.²


² For purposes of administrative convenience, the FCC may wish to protect one agreed upon central transmitter site for each group of applicants for a particular allotment.

CONCLUSION

For the foregoing reasons, the Commission should revise its Notice to protect pending construction permit applications for new stations.

Respectfully submitted,

DAVIS TELEVISION TOPEKA, LLC
DAVIS TELEVISION PITTSBURG, LLC
DAVIS TELEVISION WATERVILLE, LLC
DAVIS TELEVISION CORPUS CHRISTI, LLC
DAVIS TELEVISION FAIRMONT, LLC
DAVIS TELEVISION DULUTH, LLC
DAVIS TELEVISION WAUSAU, LLC

By: 
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